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EXECUTIVE
SECRETARIAT

MEMORANDUM FOR THE ATTORNEY GENERAL

FROM: Daniel J. Bryant *Δ98*
Assistant Attorney General

SUBJECT: Weekly Report for May 28, 2001- June 8, 2001

THIS WEEK

Council of Europe Cyber Crime Convention: On Wednesday, May 23, the Department briefed staff from Senate Foreign Relations Committee (Helms/Chair) on the current status of the draft convention. In addition, Senate Judiciary Committee staff will receive this briefing on Friday, May 25, and a similar briefing is tentatively scheduled for Tuesday, May 29, with Joint Economic Committee staff (Bennett/Chair) staff. Note: This briefing was originally scheduled for Friday, May 18 and cancelled on short notice. (Daley)

Department Reauthorization Hearing: On May 30, representatives of the Civil Rights Division and OLA will be meeting with staff for the House Judiciary, Constitution Subcommittee in anticipation of the June 6 reauthorization hearing at which you will be testifying. (Scott-Finan)

Field Hearing: Winter Olympics Security: On Thursday, May 31, the Deputy Attorney General will testify at a field hearing in Salt Lake City, Utah before the Senate Judiciary Committee (Hatch/Chair). The hearing will highlight the cooperation and coordination between law enforcement in preparation for the Winter Olympics next year. (Daley)

Victims Rights Amendment: On Thursday, May 31, staff from OLA and OPD will meet with staff from Senators Kyl and Feinstein to discuss their draft Victims Rights Constitutional Amendment. (Pearlman)

House Government Reform Subpoena for Criminal Division Declination Memorandum: On May 22, 2001, we received a subpoena from the Committee for an internal Criminal Division Memorandum reflecting attorney deliberations that concluded in a recommendation that we decline to prosecute a particular individual for misstatements made in a Committee staff interview. We have already briefed the staff on the reasons for this decision in an effort to accommodate their information needs while protecting our significant confidentiality interests in this document. We expect to confer with new Assistant Attorney General Michael Chertoff this week and agreed with Committee staff to have further discussions with them thereafter, perhaps

including a principals level meeting. The Committee has outstanding requests for additional declination memoranda relating to other investigations and we understand that our actions here will establish a precedent for this and other Committees seeking to conduct oversight regarding prosecutorial decision-making. (F.Burton)

THE WEEK AHEAD

Consequences for Juvenile Offenders Act of 2001: On April 19, the Department sent its views on H.R. 863, "Consequences for Juvenile Offenders Act of 2001" to the House Judiciary Committee. Full Committee markup has already occurred on this bill, and House floor consideration is expected in the next few weeks. We supported the bill. Representative Greenwood has indicated that a hearing is tentatively scheduled on June 6 on provisions he had introduced in H.R. 1150 in the 105th Congress and that were included in H.R. 1501 in the 106th (sections 1312-1314). We have declined an invitation to testify, but have been asked to submit written views. (Owen)

Ira Einhorn Extradition: The House Government Reform Subcommittee on Criminal Justice, Drug Policy and Human Resources has scheduled a hearing on "Justice Delayed: Extradition and the Ira Einhorn Case" on June 7, 2001. We met with Subcommittee staff on May 22, 2001, to discuss shifting the focus of the hearing away from a pending case. Criminal Division DAAG Bruce Swartz will testify if the hearing goes forward. (Tanner)

SW Border - Prescription Drugs: The House Committee on Energy and Commerce has scheduled a hearing concerning the flow of prescription drugs into the United States for June 7. A meeting with staff was held on Friday, May 25, 2001. The hearing will address importation of prescription drugs by mail, and also land imports pursuant to the Controlled Substances Trafficking Prohibition Act of 1998, Public Law No. 105-357. This Act allows individuals to bring into the United States from another country up to 50 doses of controlled substances (other than Schedule I) without a prescription. DEA has been asked to provide a witness. (Tanner)

Unaccompanied Minors: Staff from OLA and INS are working with House Immigration Subcommittee Chairman Gekas and Ranking Member Jackson Lee on scheduling Member briefings in mid-July to discuss current protocol with respect to juvenile detainees. Representatives from EOIR will attend as well. (D.Burton)

THE WEEK IN REVIEW

Child Internet Protection Act (CIPA): The Civil Division sent a representative on Monday, May 21, to brief Representative Istook and a staff member from Representative Pickering's office on the status of a lawsuit challenging CIPA on constitutional grounds. Congressman Istook was a principal sponsor of this legislation. Several library groups and the ACLU have filed suit seeking to have the law declared unconstitutional. (Owen)

World War II Memorial: On Monday, May 21, the Senate passed H.R. 1696 by unanimous consent. This bill would expedite the construction of a World War II Memorial on the National Mall. On Tuesday, May 22, the House passed the Senate amended version by voice vote.

(Pearlman)

Superfund Small Business Liability: On Tuesday, May 22, the House approved H.R. 1831, "The Small Business Liability Relief Act" by a vote of 419-0. This bill exempts small businesses from superfund liability. (Pearlman)

Clean Water Act: On Tuesday, May 22, staff from OLA and ENRD met with Congressman Pombo to discuss the use of private enforcement actions under the Clean Water Act. (Pearlman)

Nominations: The Senate Government Affairs Committee held a hearing on the nominations of Erik P. Christian and Maurice A. Ross, both to be Judges on the D.C. Superior Court, on May 22. Both nominees were approved by the Committee on May 23 and confirmed by the Senate on May 24.

The Senate Judiciary Committee held a hearing on the following nominations on May 23: Ralph Boyd, to be Assistant Attorney General for the Civil Rights Division, and Robert McCallum, to be Assistant Attorney General for the Civil Division. Mr. Boyd received only one question; none were directed to Mr. McCallum. Both nominees received written questions.

On May 24, the nomination of Theodore Olson, to be Solicitor General, was confirmed by the Senate by a vote of 51-47; the nomination of Viet Dinh, to be Assistant Attorney General for the Office of Policy Development, by a vote of 96-1; and Michael Chertoff, to be Assistant Attorney General for the Criminal Division, by a vote of 95-1. Senators Ben Nelson and Zell Miller voted for the Olson nomination. Senator Hillary Rodham Clinton voted against both Dinh and Chertoff.

The following nomination was sent to the Senate on May 21: Sharon Prost, to be a United States Circuit Judge for the Federal Circuit. On May 22, the nominations of Thomas Sansonetti, to be Assistant Attorney General for the Environment and Natural Resources Division, and Lavenski R. Smith to be a United States Circuit Judge for the Eighth Circuit, were sent to the Senate. On May 23, the nominations of J. Robert Flores, to be Administrator of the Office of Juvenile Justice and Delinquency Prevention, and William J. Riley, to be a United States Circuit Judge for the Eighth Circuit, were sent to the Senate. Sarah Hart's nomination to be Director of the National Institute of Justice and Eileen O'Connor's nomination to be Assistant Attorney General for the Tax Division were submitted to the Senate on May 24. (Scott-Finan)

SPAM: The House Judiciary Committee held a markup May 23 on House versions of the bill (H.R. 718, H.R. 1017). The Judiciary Committee's sequential referral expires on June 5, 2001. The Department is currently consulting with the White House and other agencies regarding these bills, all of which have criminal enforcement provisions. The Judiciary Committee appears to have marked up a much narrower bill than the House Commerce Committee. (Owen)

Identity Theft: The Criminal Division testified on May 23, on identity theft before the House Energy and Commerce Committee. The Senate Banking Committee has also indicated an interest in holding a hearing on this topic during the first week of June. (Owen)

Alabama Bombing Case: On May 24, U.S. Attorney for the Northern District of Alabama Doug Jones met with staff for Senators Specter and Sessions about the recent case in Alabama which involved new FBI evidence. (Scott-Finan)

Fighting Cyber Crime: On Thursday, May 24, the House Judiciary Subcommittee on Crime (Smith/Chair) held a hearing on state and local law enforcement efforts to combat cyber crime. This is the first in a series of cyber crime hearings to be conducted by the Subcommittee. (Daley)